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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,687	12/17/2001	Susan T. Tingey	83784CEB	2305

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EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

10/022,687

Applicant(s)

TINGEY ET AL.

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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*Specification*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
- (c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

2. The specification is objected to under 37 CFR 1.71, as the specification, as originally filed, does not provide support for the new matter as now claimed. The specification as filed does not provide support for “means for removably attaching said reusable article container to said display member, and means for removably attaching comprising extended flange portions snugly sandwiched between said partially overlapped, closely spaced first and second layers” as recited in claim 1 because the reusable article container 20 is not removably attaching to the display member (page 5, lines 17-18 of the specification).

3. Claims 1-10 are finally rejected under 35 USC 112, first paragraph, for the reasons set forth in the objection to the specification.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the phrase "...capable of secure closure to protect at least one article from light and moisture" is directed to the reusable product container 20, but the phrase "means for removably attaching said reusable article container to said display member, and means for removably attaching comprising extended flange portions snugly sandwiched between said partially overlapped, closely spaced first and second layers" is directed to the transparent shell 30 because the reusable article container 20 is not removably attaching to the display member. Clarification is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 2 and 5-10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Segal (4,842,141) in view of Nakagoshi et al. (5,667,071; hereinafter Nakagoshi'071) and Nakagoshi (5,020,669). To the extent that the Examiner can determine the scope of the claims, Segal discloses a storage and display package (A) comprising a display member having partially

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overlapped, closely spaced first and second layers (10, 12) and a plastic shell/transparent polymeric layer (40) for holding at least one item (B) having extended flange portions (50) snugly sandwiched between the partially overlapped, closely spaced first and second layers which is considered equivalent to means for removably attached a reusable article container to the display member as claimed. Segal also discloses the other claimed limitations except for the item being a reusable article container having a recloseable lid capable of secure closure to protect at least one article from light and moisture. Nakagoshi'071 shows a storage and display package (26, 28) for holding a reusable article container (2, 4) having a recloseable lid (5) for containing at least one article (3) and capable of secure closure to protect the at least one article from moisture and dust. Nakagoshi suggests a storage and display package (1-6, 8) for holding a reusable article container (13) having a recloseable lid for containing at least one photographic film and capable of protecting the photographic film from light (Figure 7). It would have been obvious to one having ordinary skill in the art in view of in view of Nakagoshi'071 and Nakagoshi to modify the package of Segal so the item comprises a reusable article container having a recloseable lid capable of secure closure to protect the at least one article from light and moisture for better protecting the article and also allowing the package of Segal for holding the container in lieu of the item. As to claims 2 and 5-6, Segal discloses the first and second layers (10, 12) made from paperboard material and adhered together to form the package (column 5, lines 33-35).

8. Claims 3 and 4 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Kirk (4,613,038). Segal further

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fails to show the plastic shell/transparent polymeric layer being semi-rigid. Kirk shows a storage and display package (12) comprising a display member (40) and a plastic shell (20) formed from a semi-rigid transparent plastic material. It would have been obvious to one having ordinary skill in the art in view of Kirk to modify the package of Segal as modified so the plastic shell/transparent polymeric layer comprises a semi-rigid shell for better protecting the container within the shell.

### ***Response to Arguments***

Applicant's arguments filed on 11/8/2004 have been fully considered but they are not deemed to be persuasive.

Applicant indicates in the remarks that "the means for removably attaching said reusable container to said display member is the plastic shell 30 shown in Figs. 1, 2, and 3" is noted. This is understood, however, the reusable container as defined in the specification is not the transparent shell 30 but it is the reusable container or travel case 20. The case 20 is not attached to the display member by the extended flange portions.

Applicant's arguments with respect to the references as applied in the rejection of the claims are noted. They are not persuasive because the reusable container is old and conventional as shown by Nakagoshi and Nakagoshit et al. There does not appear to be anything unobvious about using the teaching of Nakagoshi and Nakagoshit et al. for packaging the reusable container in the package of Segal for better protecting the article within the reusable container.

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**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

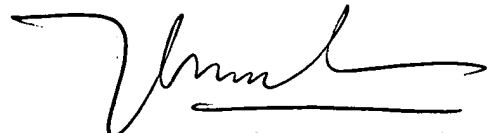
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Marilyn Watts at (571) 272-4398.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
December 27, 2004

  
Luan K. Bui  
Primary Examiner